

REMARKS

In this response, claims 1, 12, 22, 25, 29, 32, 36, 39, 43, 46 and 47 have been amended. No claims have been canceled. Accordingly, claims 1-47 remain pending in the present application. Reconsideration of the above-identified patent application is hereby requested.

REJECTIONS UNDER 35 U.S.C. § 102(e)

The Examiner has rejected claims 1-7, 11-18, 22, 23, 25-27, 29, 30, 32-34, 36, 37, 39-41, 43, 44, 46 and 47 under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,252,883, issued to Schweickart et al. (hereinafter Schweickart). Reconsideration and withdrawal of this rejection is requested in view of the amendments and addition made to the claims and of the following discussion.

It is axiomatic that for a reference to be anticipatory, each and every feature in the claims must be disclosed by the single reference. Schweickart does not anticipate the features present in the currently amended claims to allow the receipt of personal data of a user, "the personal data comprising step data corresponding to a number of steps counted during an activity of the user."

Schweickart discusses "data devices 30 such as hand-held units 21 which may be chip sets [sic.] and cellular phones, for example, transmit personal medical data which is modulated in

Amendment Dated May 17, 2004  
Reply to Office Action dated  
December 15, 2003

-16-

Appl. No. 09/757,241  
Atty. Docket No. 64919-5005

the data service 21 and transmitted by antenna 23 as the spread multiple access data packets." Col. 4, lines 42-46 (emphasis added). In contrast, Applicants' claimed invention involves step activity data that is captured when the user is engaged in, for example, a fitness activities such as running or jogging.

Far from anticipating the currently amended claims, Applicants respectfully submit that Schweickart teaches away from utilizing this data. For example, the user ("patient 17") in FIG. 1 and FIG. 8 of Schweickart is bedridden and shown as not being active. Further, the description at column 5, lines 48-56 discusses the patients being coupled to an intravenous drip controller.

Applicants note that independent claims 1, 12, 22, 25, 29, 32, 36, 39, 43, 46 and 47 contain the above-described personal data limitation and that dependent claims 2-11, 13-21, 23-24, 26-28, 30-31, 33-35, 37-38, 40-42, and 44-45, by virtue of depending on these independent claims, also contain the same limitation. Therefore, these dependent claims are allowable for the same reasons as discussed above.

In view of the foregoing discussion and the amendments made to the claims, Applicants submit that the § 102(e) rejections are overcome. Thus, Applicants respectfully request that the § 102(e) rejections be withdrawn.

**REJECTIONS UNDER 35 U.S.C. § 103**

The Examiner has rejected claims 8-10, 19-21, 24, 28, 31, 35, 38, 42 and 45 under 35 U.S.C. § 103 as being unpatentable over Schweickart in view of Goodman, U.S. Patent No. 5,827,180 (herein Goodman). Specifically, the Examiner states that "Goodman teaches that it was well known in the art to monitor a user with a personal communication device and to generate feedback information pertaining to personal data and to display the information on the display of the personal communication device. . . . Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Schweickart . . . by Goodman so that the user will know their medical status so that they can administer more medication or call their health car [sic.] provider if the received information warrants such action." Dec. 15, 2003 Action, Page 6, paras. 1-2 (emphasis added). Applicants respectfully traverse.

Applicants initially note that independent claims 1, 12, 22, 25, 29, 32, 36, 39 and 43 have each been amended to include the step data limitation, described by Applicants above, with regards to the 35 U.S.C. § 102(e) rejection. Dependent claims 8-10, 19-21, 24, 28, 31, 35, 38, 42 and 45, by virtue of depending on these independent claims, also contain the same limitation. As detailed below, Applicants submit that as neither Schweickart or Goodman, alone or in combination, teaches or

Amendment Dated May 17, 2004  
Reply to Office Action dated  
December 15, 2003

-18-

Appl. No. 09/757,241  
Atty. Docket No. 64919-5005

suggests the claimed step data limitation, these claims are allowable for the same reasons as discussed above.

Schweickart does not disclose or suggest the presently claimed limitation of receiving personal data of a user, "the personal data comprising step data corresponding to a number of steps counted during an activity of the user." Goodman also suffers from the same deficiencies as Schweickart. For example, the algorithm in the patent management system of Goodman "accepts as input at least one indicia of the patient's then current health status. Such indicia can include a measurement of a physiological parameters such as pulse rate, peak flow, blood pressure and the like." Goodman, col. 8, lines 47-49. Thus, no discussion as to step data is disclosed or suggested.

Further, Applicants submit that even when Schweickart and Goodman are combined they do not teach nor suggest the claimed limitation of "the personal data comprising step data corresponding to a number of steps counted during an activity of the user." In fact, Applicants submit that, when combined, the resulting system would arguably be used for the administration of medicine rather than the monitoring of step data.

In view of the foregoing discussion, Applicants submit that the § 103 rejections are overcome. Thus, Applicants respectfully request that the § 103 rejections be withdrawn.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

Respectfully submitted,

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Amendment Dated May 17, 2004  
Reply to Office Action dated  
December 15, 2003

-20-

Appl. No. 09/757,241  
Atty. Docket No. 64919-5005

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